IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

THURSDAY, THE 31ST MAY 2007 / 10TH JYAISHTA 1929

WP(C).No. 16630 of 2007(D)

PETITIONER:

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1. VINI, WIDOW OF ASHOK KUMAR, AGED 32,
   RESIDING AT POOMUKHATTU VEEDU, KANNANKARAMOOZHI,
   ARYANAD, NEDUMANGAD, THIRUVANANTHAPURAM.

2. ARYA V. DAUGHTER OF VINI,
   MINOR GIRL, RESIDING AT THE SAME ADDRESS AND
   REPRESENTED BY HER MOTHER, THE 1ST PETITIONER.

BY ADV. SRI.C.N.SREEKUMAR
SRI.G.SUDHEER

RESPONDENTS:

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1. KERLA STATE FINANCIAL ENTERPRISES
   (MALAYINKIL BRANCH), MALAYINKIL, NEDUMANGAD TALUK,
   THIRUVANANTHAPURAM DISTRICT.

2. SPECIAL DEPUTY TAHSILDAR (KSFE),
   TRIVANDRUM.

3. STATE OF KERALA,
   REPRESENTED BY THE DISTRICT COLLECTOR,
   THIRUVANANTHAPURAM.

R1 BY ADV. SRI.M.L.SAJEEVAN, SC

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 31/05/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

C.N.RAMACHANDRAN NAIR, J.

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W.P.(C) No.16630 of 2007

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Dated this the 31st day of May, 2007.

JUDGMENT

Petitioners' specific case is that they are neither borrowers nor guarantors for the loan availed by deceased husband of the first petitioner who committed suicide. The petitioners cannot be made liable for the liability of the deceased merely because they are wife and daughter respectively. It is for the recovery authorities to trace the properties of the defaulter and proceed for attachment and sale of the same. Even if petitioners are holding the said properties, the respondents are free to dispossess them and sell the same. However, attachment should be of the properties of the defaulter. If any transfer is made to petitioners or others to defraud the creditor, then such sale can be declared invalid and recovery can be continued. I make it clear that personal assets or properties of the petitioners should not be proceeded against for recovery of arrears due from the deceased defaulter.

W.P. is disposed of as above.

C.N.RAMACHANDRAN NAIR
Judge

pms